ESSAY

THE GREAT LEAP FORWARD:
THE FOURTH DECADE OF
HOUSTON LAW REVIEW

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At the dawn of Houston Law Review's fourth decade, the accomplishments of its predecessor ten years were much in evidence. A relationship with a burgeoning institute that resulted in publishing numerous top-tier national scholars? Check. A logistically proficient and technologically endowed publication process? Check. A generously donated copyright on a widely publicized (and purchased) legal handbook to finance the organization's operations? Check. But would the advance continue? Could HLR grow further? Perhaps even exponentially? Leapin' lizards, yes!

* Andrews Kurth Professor of Law, University of Houston Law Center. To the members of Board 50, Matthew Hoffman and I owe an enormous debt of gratitude. Were it not for the diligent research of Katherine Witty and the genial patience of Board 50's Editor in Chief Peter Danysh, Chief Articles Editor Casey Holder, Managing Editor Cade Mason, and many others, this installment in the telling of Houston Law Review's now four-fifths storied existence could in no way have become, itself, history. Thanks, as ever, to the O'Quinn Law Library: Director Spencer Simons, Associate Director Mon Yin Lung, and Research Librarian Christopher Dykes. Matt and I are also grateful to Justice Jeff Brown, Robert Gonzalez, George May, Alex Roberts, and D'Andra Shu, each of whom was offered the opportunity to review the manuscript but none of whom are responsible for its imperfections as published. The authors also benefitted enormously from the Decade 4 Oral History of Houston Law Review, moderated by Mr. Hoffman, with participants George F. May, Robert Sergesketter, and D'Andra Shu (Mar. 7, 2013) (on file with Houston Law Review). Finally, Matt and I thank profusely all the members of Boards 31–40, those who actually lived the story to which we have struggled to do justice here.

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia which the authors and the members of Board 50 hope will enlighten and amuse, if not necessarily in equal degree.

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**LEAPING (AS IN "FORWARD") . . .**

*Centering Continued*

For the first time in these essays, in *Houston Law Review*’s Decade 4 there were no new buildings at the University of Houston Law Center. Deans came, but mostly went (serving an average of 2.5 years each during the decade), and no new re-conceptualizations of the mission of the school as a whole emerged that would themselves change the course of *Review* history.  

But in the Law Center organizations that impacted deeply the content of *HLR*’s volumes, and within *Houston Law Review* itself, big things were happening. A soldier stormed the entrenched battlements of *HLR* and took command of the *Review* at a decisive moment; content reached a level of quality never before seen, although fondly imagined; and then there was Allison.

Notwithstanding all the tumult, Decade 4 would become the loadstar of *HLR*’s great leap forward.

*Health Law.* By far the most important (to *HLR*, at least) of the many institutes, centers, and programs that had sprung up during Decade 3’s transformation of the University of Houston’s College of Law into the Law Center we know today had been the Health Law & Policy Institute (HLPI), renamed and reinvigorated by its new director, Professor Mark Rothstein of the Law Center faculty, in 1986. A significant portion of *Centered*, the predecessor to the present essay, is devoted to the detailed history of HLPI as it relates to *Houston Law Review.*

Suffice it to say by way of recap here that HLPI’s consistent ranking at the top of health law programs among U.S. law schools not only burnished the ratings of *HLR*’s parent organization, the Law Center, but also, through the presentation of 12 nationally visible, top-quality symposia, enabled the *Review* to publish in its pages the work of world-class scholars whose affiliation with *HLR* would have been the envy of any law review in America.

By 2000, however, the partnership between HLPI and *HLR* had run its course. Mark Rothstein and his wife, Laura Rothstein, were departing for the University of Louisville, where Laura would become Dean of the Louis D. Brandeis School of Law. For a variety of reasons, including the desires of the
students attracted to the Law Center by health law studies, HLPI decided to strike out on its own with a new, specialized journal. Thus ended Houston Law Review's annual Health Law symposia series.

Fortunately, as Health Law departed HLR's pages, a new kid on the institute block stepped in to fill the annual symposium gap.

Intellectual Property and Information Law. From its earliest decades, Houston Law Review had displayed a peculiar and sustained interest in IP and information law. True, the subjects did not receive coverage with nearly the same regularity as, say, litigation matters; and both energy law, and then health law as HLPI grew, also appeared with greater frequency. All of HLR's first five volumes, however, contained articles addressing intellectual property and/or entertainment law. In Decade 2, Raymond T. Nimmer, an already-distinguished scholar who would serve as Law Center dean in both Decades 4 and 5, began to write about electronic funds transfer systems, thereby presaging his later interest in computer and information law; and another author noted matter-of-factly: "The computer software industry is exploding." Decade 3 continued the focus, with not only attention to traditional applications of familiar IP law but also a venture into the brave new interface between IP and health law. And also in Decade 3 (indeed, the year before Mark Rothstein revivified the moribund Health Law program), Nimmer founded his own Computer Law Institute to promote the study and dissemination of knowledge in his new specialty.

In 1991, the Law Center's Dean, Robert L. Knauss, asked the school's copyright professor, Craig Joyce, to consider founding an Intellectual Property program to complement Nimmer's Computer Law Institute. The copyright law professor, while recognizing that he was the only member of the school's full-time faculty specializing in any of the traditional IP subjects (principally, copyright, trademark, and patent law), felt compelled to point out a problem. Houston, Texas, might be a powerhouse center for the petrochemical, biomedical, and astrophysical industries, all of them highly interconnected with patent (and trade secret) law, but it was far from the center of the copyright industries on the East and West Coasts.

Thus, for an IP program to be located in Houston, the copyright law professor thought that he might make an excellent mascot, just not an adequate director. The Dean accepted the change in plans. With the faculty's approval, the copyright professor became faculty director of the Law Center's newest
special program, while local superstar practitioner and egghead intellectual Paul M. Janicke was hired as staff director—later moving to tenure-track and tenured status, a named professorship, and of course faculty co-directorship.15

The University of Houston Law Center had an Intellectual Property program.

Like the Health Law & Policy Institute,16 many of the IP program’s subsequent achievements are of little importance to its subsequent relationship with Houston Law Review.17 Other initiatives of the program, however, would in short order prove central to HLR’s dramatic advances during Decade 4.

Among the highlights, all to be described in detail in the Contents section below, were the following developments:

- *The Fall Lectures.* Begun initially by Professor Janicke as “The Katz-Kiley Lectures” (and known more recently as “The Katz Family Foundation Fund Lectures”), this event marked the first collaboration between the newly formed IP program and Houston Law Review. While designed as a “live lecture” in Houston, beginning with Board 32’s tenure the series occasionally produces published product by agreement between HLR and the program.18

- *Miscellaneous Symposium Issues.* The new IP program also began co-marketing with Professor Nimmer’s Computer Law Institute and, during the middle years of Decade 4, while the Review remained committed to its highly successful symposium series with Health Law, Computer Law nevertheless contributed two symposia to HLR’s pages.19

- *The Annual National Conference Symposium Issue.*20 Shortly following the merger of the IP program and the Computer Law Institute (see below) and the discontinuance of the HLR/HLPI series of symposia on health law, the IP program’s successor (whose history follows this listing of Decade 4 developments), at Professor Joyce’s instigation entered into an agreement with Houston Law Review to stage, and HLR to publish the articles resulting from, a continuing series of National Conferences to be held annually in Santa Fe, New Mexico. The actual symposia publications of Decade 4, including articles by such notable scholars as Judge Richard Posner, are described hereafter in this essay. The story of the founding of the conference will be
THE GREAT LEAP FORWARD

coupled with the history of the Spring Lecture (see immediately below) and told in Decade 5.

- *The Spring Lectures.*\(^{21}\) Also during Decade 4, although its first fruits would not be published until the beginning of *HLR*'s following decade, Joyce and the *Review* established a new lecture series, intended to be held each spring and with the specific purpose of furnishing for *HLR*'s publication articles by the leading figures, nationally and internationally, in the fields of intellectual property and information law. The series, also known as "The Baker Botts Lectures" in honor of its long-time sponsor, commenced publication with an article by Columbia Law School professor and leading copyright scholar Jane C. Ginsburg in Volume 41. For further details, see the Decade 5 essay.

All of the foregoing initiatives were commenced in Decade 4. But in the course of the decade, a new entity emerged as *HLR*'s partner. In 1999, under the enlightened leadership of Dean Stephen Zamora, the IP program and the Computer Law Institute, which had been co-branding programs for the better part of the decade, joined together as the Institute for Intellectual Property & Information Law (IPIL).\(^{22}\) By the end of Decade 4, then, *Houston Law Review* and IPIL had forged a firm, new partnership, the fruits of which by then had begun appearing prominently in the pages of the *Review*.\(^{23}\)

**Founding Frankel**\(^{24}\)

Of all of the challenges which down through the years have faced the board of editors of *Houston Law Review*, none have been more pressing than the needs both to improve continually the content of the publication and also, somehow, to keep the enterprise afloat financially. The latter concern has been a frequent topic of these essays.\(^{25}\) Happily, the single most important event of Decade 4—the founding of the Frankel Lectures—combined both to help relieve *HLR*'s constant funding worries and to advance dramatically its unbending determination to publish ever more outstanding scholarship.

The story of the Frankel Lectures, according to Robert J. Sergesketter, Editor in Chief of Board 32 (the "soldier" referenced above and described in greater detail below), began in 1994 when a "young professor,"\(^{26}\) Craig Joyce, strode into the *Review*'s adequate but not palatial offices for a seemingly impromptu chat.
Sergesketter saw in the young professor, himself something of a scholar, "the perfect person to brainstorm with in an attempt to devise a way to attract even more top-tier scholars to the Review." Recognizing that HLR, thanks largely to the success of its Texas Rules of Evidence Handbook (Second Edition) a year earlier, was now in the fortunate position of having an endowment sufficient at least to cover operating expenses, the professor wondered aloud whether the journal might be willing to risk stretching its finances further to create a new and not inexpensive lecture series to be underwritten by the Review itself. Sergesketter, who had begun to think along similar lines already, got the point immediately.

The concept was to offer modest stipends to three scholars—one keynote speaker and two commentators—who would speak on campus on a common topic and then publish in Houston Law Review the papers they had written as the basis for their oral presentations. Compiled together, these papers would form the foundation of a special symposium issue. Because the Review would fly the speakers to Houston for a celebratory dinner the night before the lecture and a tour of the Law Center on the day thereof, the lecture series would have the added benefit of bringing some well-deserved publicity to one of the nation's best younger law schools.

There would, of course, be financial consequences, or so the EIC and the professor believed. Sergesketter relates:

While [we] recognized that this use of endowment funds likely would delay achieving the Review's goal of financial independence, we both believed deeply that this was a worthy trade-off in the long-run. While financial independence certainly was an important goal, we saw it as secondary to the Review's mission of publishing top scholarship by top scholars. This new concept for a lecture series sponsored by [HLR], if successful, would in one bold step allow the Review rapidly to enhance its reputation in academic circles. And with such an enhancement in Houston Law Review's reputation also would come a further enhancement of the Law Center's reputation.

It sounded like a plan.

After collaborating over the next few weeks to refine the idea for the new lecture series, the co-conspirators met with Acting Dean Raymond T. Nimmer, who had long sought to stabilize the Review's financial footing, to present the proposal. Nimmer immediately supported it and even offered to assist with easing any financing dilemmas. In short order, the Dean secured
funding from the Frankel Family Foundation for the first lecture. In *HLR*’s Ground Floor offices, there was surprise and relief. Because of the wholly unexpected underwriting of the first lecture by the Frankel Foundation, and with some hope that a reciprocally generous gesture up-front would not pay off as poorly as had the naming of the new College of Law building in earlier years, the *Review* immediately dubbed the proposed multi-year project “The Frankel Lecture Series.”

With funding in place, *HLR* then set about identifying a keynote speaker for the first lecture. Board 32 formed a committee of law school faculty members to discuss possible speakers and, on their recommendation, selected Dean Joel Seligman of the University of Arizona College of Law, a personal friend of Professor Robert Ragazzo and arguably the nation’s foremost scholar in securities law. When contacted, Dean Seligman was intrigued enough to accept at once. With Seligman’s assistance, the *Review* then lined up two additional top academics and an advisor to the Securities and Exchange Commission to serve as commentators for the lecture.

With Board 33, headed by D’Andra Millsap (now Millsap Shu), coordinating all of the logistics, the Inaugural Frankel Lecture proved to be an enormous success. The entire event—from the dinner in Dean Seligman’s honor hosted the night before the lecture, to the lecture itself and the papers published in *HLR*’s first Frankel Lecture issue—exceeded the *Review*’s highest expectations.

The meticulous preparation devoted to the lecture, and the genial fondness of the first lecturer for those who had made it possible, were captured in Dean Seligman’s remarks, recounting the process of selecting his entrée, at the dinner:

Week before the lecture, phone rings. I pick up.
Ms. Millsap [now Shu]: “Dean Seligman, would you like chicken or fish for dinner?”
[Seligman]: “Fish.”

Next day, phone rings again. I pick up:
[Shu]: “Dean, would you like Snapper or Red Fish?”
[Seligman]: “Snapper.”

Next day, phone rings a third time. I pick up:
[Shu]: “Blackened or oven-roasted?”
[Seligman]: “I’ll just take a cheeseburger.”

D’Andra Shu recalls today, a decade and more after the dinner and lecture: “My flush was a mixture of embarrassment
and pride, but mostly pride that my group had pulled this off! They had indeed.

Recognizing the success of the inaugural lecture, the Frankel Foundation immediately agreed to underwrite future such events. Including that first lecture, *Houston Law Review* as of this writing has hosted a total of 17 Frankel Lectures. Each has included speakers who are among the most highly regarded academics in the country, and each has resulted in those scholars flying back to their respective institutions to spread the word about the professionalism and caliber of *Houston Law Review*. In turn, that word of mouth has assisted the Review in attracting even more top scholars to publish articles in its non-lecture series, non-symposium issues.

As a fitting conclusion to the story, Sergesketter, who now chairs the Houston Law Review Board of Directors, reports that, as of 2010, the Review had in fact become virtually self-sufficient financially, thanks in significant measure to the generosity of the Frankel Foundation in picking up the annual tab for the Lecture and thereby freeing up HLR funds for other purposes. That, and an unending boost to the Review’s reputational bottom line. Not a half-bad outcome from an “impromptu chat.”

*Beautiful Minds*

*Prelude.* Organizationally, *Houston Law Review* was in good shape as it entered its fourth decade. There had, in truth, been some slippage, in some instances, in timeliness of publication since the halcyon days of Boards 25 and 26. Yet the decision made late in Decade 3 to release resources such as the Evidence Handbook to publication by outside vendors, and the determination to publish future “books” in-house only in the rarest of circumstances, had gotten Decade 4 off to a good start. As reported by Board 32’s Editor in Chief, the aforementioned Sergesketter:

When Board 32 took over the helm of *Houston Law Review*, things were running well. Our predecessor board was headed by a strong editor in chief and editorial team, and they ensured that we had a good transition before they “left the building.” Given the solid foundation that was in place when our board took the reins, we were freed up to institute some major initiatives.

And did they ever.

*Salute!* Robert J. Sergesketter brought to his role as the leader of Board 32 a habit of command and a talent for
organization. He had attended Texas A&M University, where he joined the Corps of Cadets on an ROTC scholarship. After graduation, he had served as a Military Intelligence Officer in the U.S. Army, attaining the rank of First Lieutenant. While pursuing his law degree at the University of Houston, he simultaneously earned a Master’s degree in Business Administration. In short, he knew how to get things done.

Board 32 faced basically three challenges: (1) enhancing the Review’s reputation without taking measures that would imperil its finances; (2) fixing up the publication’s modest offices to make them a more attractive place to work (or, as happens at law reviews, practically live); and (3) re-mapping the production process in order to ensure the timeliness of publication of HLR’s issues going forward.

For First Lieutenant Sergesketter’s successful strategy to scale the ramparts of reputation while protecting the flanks of finances, see “Founding Frankel” above.

As to spiffing up Headquarters, Bob’s Brigade attacked with gusto. The objective was to make HLR’s offices the “preferred gathering place,” with a “collegial and positive atmosphere” for members to “hang out.” To that end, the premises were entirely repainted, desks were commandeered to assure in-house seating for every third-year editor, and the library was reconfigured to promote greater utility. No detail was too small, right down to instituting a policy of cleaning out the HLR refrigerator (by then a candidate for designation as a Superfund site) once a week. Sadly, and although no one could have imagined it at the time, all such improvements would be swept away, within Decade 4, by an act of vis major.

Of greater lasting value to the Review than the weekly clean-out of the refrigerator, there was the matter of timely publication. Here, Robert’s Regiment outdid itself.

Prior to Board 32’s entry into office, apparently the common practice had been for the outgoing board either to work after graduation to publish its final issue or for the outgoing board to publish four issues and leave finalization and publication of the fifth issue to the incoming board. Board 32’s goal was to publish all five of its issues, start to finish, and to do so before graduation.

In the summer before the academic year during which they would be Houston Law Review’s stewards, Board 32 set out to create a formalized, extremely detailed publication schedule that would result in publishing its first two issues before winter break
and publishing the final three issues in the spring, with the last issue going to the printer two weeks before graduation.

After identifying every step that went into the process of taking raw articles to publishable articles—which, in those days, were physically packaged in a FedEx box and sent to the printer for duplication and binding—Board 32 created a flowchart showing the entire process graphically. From there, it calculated the total number of weeks that were available to publish five issues, excluding the summer break before work ramped up, the two weeks before the end of each semester (necessarily earmarked for exam preparation), and the entire winter break, and then divided that number by five. This resulted in the realization that, to achieve its goal of publishing all five issues before graduation, the student editors had exactly five weeks to take each of the five issues from raw articles to finished products.

With that daunting realization before them, the editors created a calendar showing the exact dates when each step of the editing process for each article within each of the five issues had to be completed. This detailed publication calendar would allow the Review, for the first time in its existence, to register, literally within 24 hours, every time that it fell behind schedule on a particular article, thereby facilitating a reallocation of resources to get back on schedule so that the journal hit the designated publication date for each issue. After creating the master publication calendar, the planning team gave every editor and member a personal copy of the calendar during the first week of fall classes. According to Sergesketter, the nearly universal reaction from everyone upon seeing the calendar for the first time was: "Never gonna happen."

But it did happen. Indeed, Board 32 published all five issues on the exact date shown on its master publication calendar. Since its creation in 1994, that publication calendar, adjusted to reflect each particular year, has been used by every subsequent board. For graduating members of the Review, adhering to the publication calendar means never having to step foot in HLR's offices after walking across the Commencement stage. More importantly for HLR as a whole, adherence to the publication calendar means that Houston Law Review has for nearly 20 years been able to offer prospective authors guaranteed publication dates—a not-insignificant selling point when competing against other reviews throughout the country for top-tier articles.

Thus, as with the founding of the Frankel Lectures, another great leap forward for Board 32 and Houston Law Review. Given only diligent successor boards, on-time publication was guaranteed in perpetuity. Imagine. On that field of battle too,
then, Sergesketter’s Army had won a noble, and enduring, victory.

Beyond. Board 33, and the Decade 4 boards beyond, took the opportunity presented to them to “fill the big shoes” left by Board 32, and they did so spectacularly, in numerous ways. Technology, in particular, was an obvious area for continual improvement, so Boards 33–40 took advantage of the high-tech revolution of the 1990s to modernize the Review.

Board 33 began the process by “constructing for the Law Review an elaborate home page on the World Wide Web[,] … [g]iven [its] growing popularity.” The editors of Board 33 recognized that “[b]etter technology is the wave of the future” and adapted accordingly. In addition to a permanent home on the Web, multiple computers were purchased throughout the decade, modern copiers replaced their dinosaur predecessors, the Review acquired an e-mail address, and the editors began “to discover the goldmine of research available on the Internet.”

By Board 37, as the new millennium approached, concerns arose that the Review’s computers were not Y2K compliant. In any event, Armageddon failed to materialize. And within the year, a complete redesign of the fledgling website utilized swiftly developing technologies to make the online HLR experience more interactive than ever. As the end of the decade neared, HLR could safely say that at least one aspect of its operations had entered the high-tech age for good. In the spring of 2001, the Review reached an agreement with its printer to begin submitting issues in PDF format, rather than through the increasingly antiquated process of mailing paper copies via Federal Express.

Apart from a great leap in technological prowess, the revamped editing process—which inevitably led to smoother interactions with the published authors and consistently on-time publication—did not go unnoticed by HLR’s peers. Following the publication of one of Decade 4’s many top-tier authors, who had gone home to his top-14 law school with superlative praise for the Review’s processes, Cornell Law School’s dean contacted Board 34’s editors for ideas on how to improve his home institution’s law review. Along with citations to numerous HLR articles in the National Law Journal’s “Worth Reading” section, two of Decade 4’s IP pieces were declared by the Intellectual Property Law Review to be, separately, “[among] the best intellectual property law review articles recently published”; and HLR itself was featured prominently on Westlaw’s “Welcome to Westlaw” homepage in February 2000, thanks to one of its recently
published articles having received the most views of any article on Westlaw the previous month.\textsuperscript{55}

In the summer of 2001, eight years into its fourth decade, \textit{Houston Law Review}’s future looked brighter than ever. The skies ahead were clear as far as the eye, or at least the eyes of \textit{HLR}’s editors, could see. So much having been accomplished so recently, what could possibly go wrong? Except, perhaps, an Act of God?

\textit{Almost Undone: All About Allison}

Faithful readers of these essays will recall occasional mention heretofore of the peculiar history attending \textit{Houston Law Review}’s physical location during its now half-century at the Law Center. \textit{HLR}’s first home had been a tiny office in the University of Houston main library’s basement.\textsuperscript{56} The new College of Law buildings opened in 1969 had contained a level (just \textit{above} the basement) suspiciously denominated “Ground Floor,” which meant that the floor was in fact \textit{half-sunken} into the ground—and thus into the buried watercourse of a sometime tributary of nearby Brays Bayou.\textsuperscript{57} Sure enough, in keeping with tradition, the Review had been assigned space there. The consequences could be amusing, as when the periodic “water intrusions” experienced by the new buildings allowed members of the Review to witness confused elevators mindlessly going up-and-down, floor-to-floor, their doors opening and closing at each stop, and occasionally, depending on the state of their short-circuited wiring, presenting pyrotechnic displays to astonished onlookers.\textsuperscript{58}

All funning aside, however, basements and “ground” floors are chancy places to locate anyone or anything where flooding is a constant threat, as it is on the Gulf Coastal plain where Houston, Texas, lies. Someday, something could go badly wrong.

On the night of June 9, 2001, something did.\textsuperscript{59}

Tropical Storm Allison had swept through Houston only days earlier, heading off toward East Texas with relatively little damage left behind. But then the storm stalled, drifted backwards, and parked itself over downtown Houston, the city’s namesake university, and the University of Houston Law Center. In total, 35 inches of rain fell that night.

Utilities at the University of Houston are connected to the various colleges through large underground tunnels. Stray water occasionally invades the tunnels. But the tunnels feature submarine doors to ensure that no water leaks into the basement levels of buildings. The tunnels also are equipped with pumps to
remove any such stray water. The pumps connect to the storm drains. The storm drains connect to Brays Bayou.

On the evening of June 9, however, Brays Bayou filled to its banks, and the storm drains filled to their walls. The pumps in the University of Houston tunnel system had no place to disgorge the water now rapidly accumulating in the tunnels. The weight and force of huge accumulations of water are almost unimaginable.

The tunnel to the basement of the Law Center had filled full. Then, the doors holding the accumulated water out of the building failed. Into the basement floors of the several Law Center buildings, courtesy of Tropical Storm Allison, swept a tidal wave, pushing aside everything in its path.

The first victim of the surging waters was the lower level of the Law Center's John M. O'Quinn Law Library. The entire contents of the library's lower level, including Government Documents, State Reporters, the Judge John R. Brown Papers, the International and Comparative Law collections, and one of the nation's best Admiralty Law collections, were destroyed instantly.

When the chair of the school's Facilities Planning and Policy Committee, Craig Joyce, observed the scene of devastation at first light the next morning, all of the books in all of the collections, and all of the tables, chairs, shelves, and other furnishings pushed aside by the tidal wave as it had swept through, were submerged in 12 feet of water. Only a model ship, formerly on display in the Admiralty Collection, seemed to have kept its wits. It floated serenely on top of the underground lake that was now the lower level of the O'Quinn Law Library.

The waters of Allison had not stopped, however, at the library's walls. They had proceeded to the basements of other buildings, destroying also the Law Center's HVAC system. The entire complex was now not only a disaster site, but also completely defenseless against the mold and mildew of a Houston summer.

On the morning of June 10, 2001, the University of Houston Law Center was closed to all but emergency workers, the director of the library, and the chair of the facilities committee. No one else could access anything. Not faculty. Not staff. Not students attending summer classes. And not the members of Houston Law Review.

Notwithstanding all of the advances of Decade 4, was this how the Great Leap Forward would end? With Houston Law
Review figuratively face-down in the enormous puddle that Allison had left in its wake? Or was there, possibly, a way back?

...GIZZARDS (AS IN "CONTENT")

Not surprisingly, the events and decisions just recounted had a tremendous impact within the covers of Houston Law Review during Decade 4. As reflected in the contents of the publication itself, the Review split ways amicably with one institute but gained an equally beneficial relationship with another, began to host and publish an annual lecture series on par with any other nationwide in prestige of keynote and commentary, and included among its non-symposia, non-themed issue ranks more top-flight nationally renowned scholars than editors of prior decades could have hoped to imagine.

As Ever

All walks of scholars took up residence in the “as ever” precincts of Houston Law Review—those not a part of some themed issue or symposium—during the Review’s fourth decade. From Texas judges to British literary critics, from renowned law professors to familiar faculty advisors, HLR’s wide-ranging and well-established excellence was evident in these “as ever” articles. What they had in common was the kind of prestigious pedigree to which HLR’s readers had grown comfortably accustomed in Decade 3. The Review continued to publish the best. A habitual overachiever had hit its stride.

The usual professors from the nation’s top law schools frequented Decade 4’s pages, only this time in greater concentration than ever before. Bookended by UVA professor Dayna B. Matthew in Volume 31 and Stanford professor Abraham D. Sofaer in Volume 40, the non-symposia, non-themed issue authors of Decade 4 included professors from Michigan, Rutgers, Texas, Wisconsin, George Washington, U.C. Davis, Alabama, Tennessee, Florida State, LSU, Maryland, Seton Hall,
and William & Mary. Sofaer’s *Iran–Contra: Ethical Conduct and Public Policy* and Matthew’s *Doing What Comes Naturally: Antitrust Law and Hospital Mergers* were joined by, among many others, *Form, Function, and Managed Care Torts: Achieving Fairness and Equity in ERISA Jurisprudence*, from Peter D. Jacobson of Michigan, and *The Legislative History of US Air Pollution Control*, from Arnold W. Reitze, Jr., of George Washington.  

Prestigious professors in-tow, *Houston Law Review* additionally flexed its international muscles while simultaneously maintaining its service to the bar throughout Decade 4. Sir Frank Kermode, “one of the most influential literary intellectuals of our time,” published *Justice and Mercy in Shakespeare*, based on his lecture of the same name delivered at the Law Center in April 1996. Judge David Hittner’s return to *HLR*’s pages in *Summary Judgments in Texas*, along with EEOC Commissioner Paul Steven Miller’s appearance in *The Americans with Disabilities Act in Texas: The EEOC’s Continuing Efforts in Enforcement*, offer further proof that, although now decidedly national, the *Review* continued publishing highest quality Texas-centered scholarship.

The wide national reach and well-settled academic prowess evident in *HLR*’s Decade 4 “as ever” scholarship soon would be supplemented, in the most immediate and visible way possible, by the emergence of the *Review*’s signature annual event.

The *Frankel Lectures*  
The result of much ingenuity and ambition, with a healthy dose of flawless execution, the inaugural installment of *Houston Law Review*’s Frankel Lecture Series—*The Quiet Revolution: Securities Arbitration Confronts the Hard Questions*—was keynoted by securities law expert Joel Seligman of Arizona, with commentary from John C. Coffee of Columbia, Richard E. Speidel of Northwestern, and Brandon Becker, a former Director of the Division of Market Regulation at the Securities and Exchange Commission. Over the remaining six years of Decade 4, the Frankel Lectures would bring to the Law Center a parade of the nation’s top scholars in their respective fields, pairing them with the relevant legal topics of the day.

The Lecture’s second installment, featuring law professors Pamela S. Karlan of UVA and Richard H. Pildes of Michigan and public affairs professor Carol M. Swain of Princeton, was timed appropriately to focus on voting rights through the prism of redistricting, in anticipation of the coming battles following the
millennium census. In the following years, the topics of international law and the relevance of legal scholarship to the judiciary brought commentators from Yale, NYU, Duke, the U.S. Court of Appeals for the Ninth Circuit, and the U.S. District Court for the Southern District of Texas.

In the fifth installment, printed in 2001, *HLR* worked hand-in-glove with Professor Joyce of the IPIL Institute to publish David Nimmer's *Copyright in the Dead Sea Scrolls: Authorship and Originality.* As the author of *Nimmer on Copyright* (the most highly cited secondary source in copyright law), Nimmer ranks indisputably as one of the world's foremost experts in his subject. Joining him for the Lecture were Judge James Oakes of the U.S. Court of Appeals for the Second Circuit and Martha Woodmansee of Case Western Reserve, both of whom had made their own unique impacts on copyright law (Oakes through key judicial opinions and Woodmansee as a professor of English and Law). The Frankel Lecture—this time with an assist from one of the Law Center's leading special programs—was taking the Review to heights never before seen, at least not consistently.

The decade's final lecture timely responded to the then-recent collapse of Enron and the dot-com and telecom bubbles under the weight of corporate misgovernance, drawing professors from Vanderbilt, Illinois, and Texas (a year after professors from Stanford, Miami, and Utah had opined on the Second Amendment). Seven years in, at the end of *HLR*'s fourth decade, the Frankel Lecture had brought to *Houston Law Review* the kind of publicity on a national scale that both reflected the Review's established stature and helped escalate it.

### Themed and Specialty Program Issues


Other themed issues of the decade included an evidence symposium featuring evidence gurus Edward Imwinkelried of U.C. Davis and Richard D. Friedman of Michigan; a family law symposium with an international law flavor that included Supreme Court of Canada Justice Claire L'Heureux-Dube, Georgetown professor Milton C. Regan, Jr., Ohio State professor Joan M. Krauskopf, Wisconsin professor Marygold S. Melli, and...

Health Law and Policy Institute. “Public Citizen” and presidential hopeful Ralph Nader introduced Houston Law Review to his brand of public policy in the first issue of Decade 4, characteristically pulling no punches in his assessment that “we as a society do not take occupational health and safety seriously. Period!” Along with Nader, the New Challenges in Occupational Health Conference of 1994 featured Mary Becker of the University of Chicago Law School and Thomas O. McGarity of the University of Texas. Such contributions from the likes of a future “Spoiler in Chief” and top national scholars had been common among the Institute’s five symposia issues of Decade 3, pushing health law to the top of HLR’s publication agenda almost immediately. Prior to the Institute’s permanent departure from the pages of HLR in 2000 in Decade 4, such heavyweights were firmly established as the new normal.

Policymakers and professors alike joined the health law debate in Decade 4, as many of the symposia topics bordered on the joint edge of academia and public policy, including OSHA, federal government finance, domestic relations, and the ADA. Besides Nader, included among the policymakers were U.S. Secretary of Health and Human Services Donna E. Shalala, former U.S. Attorney General Dick Thornburgh, Yale Medical School Dean and former Commissioner of the Food & Drug Administration David A. Kessler, and Houston Mayor Lee P. Brown. But the Academy was not to be outdone, with submissions from Henry T. Greely of Stanford, William M. Sage and Allyn L. Taylor of Columbia, Peter Edelman of Georgetown, Clark C. Havighurst of Duke, Walter Wadlington of UVA, Larry I. Palmer of Cornell, Lars Noah of Florida, Susan M. Wolf of Minnesota, and Karen H. Rothenberg of Maryland.

Following the Health Law institute’s final published symposium issue in 2000, HLR and HLPI would part ways on more-than-amicable terms, the Institute in search of its own specialty journal and the Review in pursuit of another institute.
Luckily, by that time, *HLR* had established a framework of successful collaboration with the Law Center’s specialty programs. All it needed was a new partner. The logical candidate was IPIL, already a regular contributor to *HLR* volumes but now about to become much more.

*Institute for Intellectual Property & Information Law.* “IPIL is to *HLR* in 2001–2013 as HLPI was to *HLR* in 1988–2000”—or so the SAT analogy might go. The relationship that would culminate ultimately in IPIL’s annual National Conference in Santa Fe and *HLR*’s resulting annual IPIL Symposium issue had begun years prior with 1994’s inaugural Katz-Kiley Lecture, featuring nationally recognized patent and trademark practitioner John Pegram asking: *Should the U.S. Court of International Trade Be Given Patent Jurisdiction Concurrent with That of the District Courts?* Modest, but a start.

Volume 32’s symposium on *Legal Issues in the Information Revolution*, led by Professor Raymond T. Nimmer of IPIL, was coordinated in *HLR* with a full slate of student comments concentrated solely on intellectual property and information law matters (a practice that continues to this day, to the extent that eager Review students in any given year are predisposed to opine on matters of IP or related law). In the following years, 1997’s Katz-Kiley Lecture would feature three attorneys from the U.S. Patent and Trademark Office, Ray Nimmer would keynote a symposium on *Licensing in the Digital Age*, and nearly an entire issue of professional scholarship would be dedicated to commenting on David Nimmer’s *Copyright in the Dead Sea Scrolls*, with contributions from L. Ray Patterson of Georgia, Richard A. Lanham of UCLA (another professor of English), Niva Elkin-Koren of the Haifa School of Law, and Israeli practitioner Neil Wilkof.

Upon the departure of the annual HLPI Symposium from *HLR*’s regularly scheduled rotation (to use a baseball analogy), the IPIL institute, eager and able to build on *HLR*’s prior successes with IP scholarship, stepped up to the plate—and did so in major league fashion. 2001’s inaugural IPIL symposium, *E-Commerce and Privacy*, featured Joel R. Reidenberg of Fordham, Anita L. Allen of Penn, Walter W. Miller, Jr. and Maureen A. O’Rourke of Boston University, Chris Reed from Queen Mary University of London, and Trotter Hardy of William & Mary. The final two symposium issues of Decade 4 included contributions from law professors from Georgetown, North Carolina, Boston College, Washington, Iowa, UCLA, and the University of Kent Law School in England, along with U.S. Court
of Appeals for the Seventh Circuit Judge Richard Posner and William Patry, University of Houston Law Center Class of 1980 and author of *Patry on Copyright*, another standout treatise in the field that he and David Nimmer share.

Initially a pinch hitter for the departing Health Law Institute, almost immediately IPIL was batting clean-up.

*The Allison Board(s)*

As the new millennium began and Decade 4 neared its end, success was building on success at *Houston Law Review*. Both substantively and organizationally, the decade had been one of unprecedented progress. How would the last two boards—Board 39 (2001–2002) and Board 40 (2002–2003)—finish? Spectacularly well.

In the fall of 2001, Board 39 would publish 411 pages of IPIL’s inaugural symposium issue, a signal accomplishment if for no other reasons than that symposia issues always mean more authors, hence more pages, and that subject matter of an IPIL symposium is never run-of-the-mill for persons not ordinarily skilled in the IP arts, like the typical *HLR* editor. Together, Boards 39 and 40 would publish a total of 1735 pages, including such classics of *Houston Law Review* literature as the Frankel Lectures of Robert W. Hamilton and David B. Wilkins, Judge Posner’s trenchant essay in IPIL’s *Considering Copyright* symposium, and the extensive collection of heartfelt tributes occasioned by the retirement from the faculty of G. Sidney Buchanan, *HLR*’s own “Captain Nice.”

All of this is well, but of course it was made much more remarkable by the circumstances in which the last two boards of Decade 4 performed. And so, again, Allison.

Tropical Storm Allison, when it came and went on June 9–10, 2001, left in its wake the single most expensive disaster ever to hit an American law school. Federal Emergency Relief Assistance (FEMA) estimated the damage to the collections of the O’Quinn Law Library, alone, at $42 million—a record claim that would topple along with the Twin Towers three months later.

How to recover, if recovery was even possible? The task fell to Boards 39 and 40 and the facilities team at the Law Center, with massive assists from FEMA, the University of Houston, and the local legal community.

As in each prior decade of these essays, the saga of *Houston Law Review*’s struggle to survive, and then surmount, the devastation caused by Allison linked inextricably to the story of the University of Houston Law Center, the larger institution that
had been home to HLR, both spiritually and physically, for almost 40 years.

For now, physical proximity no longer was possible. Throughout the summer of 2001, the Law Center's administrative functions, under the direction of Dean Nancy B. Rappaport, would be housed at the University's basketball arena, where they operated out of a combination of concession stands and (inaptly named) "luxury boxes." Instruction went on. Despite the chaos at UHLC's own facilities, students missed only two days of classes that summer. Courses were taught in faculty homes, in law firm conference rooms, and in spare classrooms at South Texas College of Law ("STCL"). Because the school's Legal Information Technology department had managed to move Law Center servers above water at the height of the storm, e-mail as a lifeline to the institution's many constituencies, including incoming students, was preserved.

Thanks to UH, FEMA, and one astonishingly dedicated Law Center alumnus,93 in the course of the summer the water was emptied from the lower levels of the buildings, power was provided externally, and cool air arrested the spread of mold and mildew. On the morning of August 21, 2001, the two above-ground levels of the Law Center,94 housing classrooms and faculty offices, reopened for business, and the new academic year began as scheduled.

Houston Law Review, however, was still on the lam, with no immediate hope of return. Boards 39 and 40 would remain homeless, at least in terms of accommodations within the Law Center, for 13 months to come.

As to UHLC's two mostly subterranean levels, Allison had been an equal opportunity destroyer. The Basement Floor, which housed the lower level of the law library and the utilities for all of the levels above, had flooded up, thanks to its tunnels. The so-called Ground Floor, where HLR officed, had flooded down, as surging waters outside the buildings flowed into the below-ground half of that level.

Little in HLR's offices remained salvageable, even when Board 39 was allowed a brief exploratory visit. Records and files? Soaked. Volumes of statutes and reports? Drowned, below the three-foot level to which the floodwaters had risen. Furniture? Ruined. Computers? All wrecked.

Led by an editor in chief and managing editor who had the preceding weekend repainted offices the Review would never again occupy,95 Board 39 went to work. Kickoff meetings were held at members' homes. Coordination was accomplished online
and via teleconferences. Editors availed themselves of the resources of the STCL library (which sits atop, not beneath, that school's downtown building).

Most importantly, a local copy shop allowed HLR personnel to have behind-the-counter space to conduct cite checks from copied resources, store documents, and come and go at will. At a time before laptops were required of every Law Center student, and when in-house edits were still accomplished, despite all the new technologies, the old-fashioned way (on paper and using different-colored pencils for each step in the editing cycle), such courtesies were invaluable.

Progress was labored but steady. Things improved when, in January 2002, FEMA furnished several dilapidated trailers and located them adjacent to the Law Center complex, making the commute to and from the copy shop to classes no longer necessary. Law firms and Review alums donated funds for computers and furnishings.

Against all odds, Board 38 published its first issue on-time, per the schedule that Board 32 had created in far less stressful times.

What about permanent housing, however? Work on the lower two levels of the Law Center had progressed. All utilities had been restored in the basement. But the books could not be put back. FEMA forbade it, lest a disaster like Allison ever again result in the loss of such expensive physical properties. Accordingly, the Ground Floor of the Law Center had been totally reconceptualized by the facilities policy and planning committee to enable FEMA to reconstitute the library without the use of half of its former footprint.

Of what use now, however, was the Basement? Clearly, the school could not afford to forego all employment of its 34,000 square feet. But who or what could be relocated there? The answer: student organizations. In the event of another Allison, books could not run; but with notice, students could. While the former library basement periodically thereafter would experience minor "water intrusions," life and limb have never been imperiled; and the $1 million worth of first-class modular furnishings, designed by architects in consultation with the organizations as to their desired configurations, have provided great flexibility as student groups and journals expand, contract, or spring to life to meet changing needs.

Thus was born the new Student Organizations Suite, drolly named by the Law Center’s facilities chair for the sheer enjoyment of thereafter referring to the school's former in-house
lake as “SOS.” In truth, although the point may not have been page-one news in the long history of post-Allison recovery, the all-student suite proved to be a huge boon to the organizations. Total space accorded to student organizations within the Law Center was tripled at a single stroke. Three dozen organizations whose space formerly had consisted of one locker each in the student bar association’s quarters acquired offices of their own. The largest organizations, HOUS. L. REV. included, not only retained their prior square footages but expanded on them.97

One hard problem remained: the actual allocation of space within SOS to particular organizations. As the senior student publication at the Law Center and the principal external projection of the school’s scholarly excellence, HLR deserved to recover, in the new organizations suite, what had been, prior to Allison, the facility’s largest and best-located student space.

To get it done, however, the Review’s faculty advisor, who was also the Law Center’s facilities chair,98 would have to make the assignment—an apparent conflict of interest that could do harm both to the Law Center and to HLR. Like Captain Nice before him,99 the faculty advisor chose to solve the problem before it became a problem: by resigning. With no conflict to impede the decision necessary to be made, the facilities chair then quietly assigned Houston Law Review its rightful space in the Student Organizations Suite.

Done. In July of 2002, after a year and a month of wandering in the post-Allison wilderness, HLR moved into its new digs. Board 38 never got to see the promised land; and Board 40 would have to re-invent processes none of its members or editors had ever seen performed anywhere but in copy shops and sagging trailers. But the two volumes produced by the post-storm boards remain forever as mute tributes to the extraordinary efforts required to save Houston Law Review in its hour of maximum peril.

Allison had been monumentally difficult for all concerned. But in time the experience proved to have been a valuable lesson. In 2005, in an event as unprecedented as the aftermath of its own tropical storm, UHLC would volunteer to help another stricken law school and serve as “home away from home” for Loyola University’s College of Law—hosting its classes and administrative functions for an entire semester—after Hurricane Katrina struck in New Orleans. But that is another story.100

By the summer of 2002, then, the University of Houston Law Center had been fully reconstituted, including the installation of all student journals and other group activities in the Student
Organizations Suite where they reside today. HLR was home again.

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Decade 4 had come to an end. Dramatic advances, and a devastating act of God. Houston Law Review had not missed a beat. The story of recovery post-Allison, and of the decade as a whole, was summed up best by one of the decade’s wholly remarkable Editors in Chief: “It was a hell of a ride.”

The Great Leap Forward.

1. A term of astonishment, “leapin’ lizards!” seems to have originated in the 1930s, when it was popularized by none other than Little Orphan Annie in the comic strip of the same name. The phrase, through the 1977 Broadway musical Annie, lives on and on and on: “Tomorrow! Tomorrow! I love ya Tomorrow! You’re always a day away!”


4. Id. at 1032–34, 1041–43.

5. See id. at 1034.

6. See id.

7. According to Nancy Kornegay, Editor in Chief of Board 38, which published the last HLPI issue, “the transition to the IP & IL issue seemed to go so smoothly, . . . [A]ll I can say is that, every day as I was studying for the bar exam in the summer of 2001, I was thanking my lucky stars that I was not dealing with the ravages of Allison at the Law Review and trying to publish” the first of the IPIL symposia. Questionnaire Response, Nancy Kornegay, Brown & Kornegay LLP (Mar. 31, 2012) (on file with Houston Law Review).

8. Except as noted otherwise, all of the information contained in the following subsection is drawn either from the personal recollections of this essay’s senior co-author or from JOHN MIXON, AUTOBIOGRAPHY OF A LAW SCHOOL App. VII (2012) (“Institutes at the Law Center, 2012”).

9. See Driven, supra note 2, at 267 (“A Curious Fascination”) (referencing early articles on patent litigation, fair use of copyright, prior restraint in the motion picture industry, the patentability of inventions, and international IP licensing agreements).


15. The detailed story of the IP program’s founding was not quite as simple as the text above the line, bowing to space constraints, makes it seem.

As indicated, the Dean and the professor saw the way forward for founding the program differently. Yet they reached a tacit quid pro quo agreement that allowed planning to proceed.
The professor could put together an IP program however he thought best. But he would get no support from the Dean, when it was put to the faculty for a vote, if the plan became controversial. The plan immediately became controversial, and the professor got no decanal support in the end.

Convinced that the program could not succeed without a patent professor but aware that the faculty was unlikely to hire one, the copyright professor set out to find a candidate who could avoid the perils of Scylla and Charybdis. Shortly, the ideal candidate emerged: a former managing partner of Houston's world-class "boutique" IP firm, Arnold, White & Durkee, an egghead practitioner who published constantly, and a top-level lawyer who had announced widely his intention to retire at age 50 to become either a concert pianist (an ambition for which he was ably qualified) or a law professor.

His name was Paul Janicke. He was then a year short of 50. And the copyright professor thought he deserved not to become yet another starving musician.

The plan was simple. Janicke would be hired as Staff Director of the proposed IP program. The copyright professor would be Faculty Director. The latter would assure that, beyond directing the program's otherwise non-existent staff, Janicke would have ample time to teach and write about patent law and other areas of interest to him.

Viewing the proposal as a Trojan horse that would later open to disclose a Janicke candidacy for tenure-track status, more than a few faculty members expressed serious reservations. In an example of Law Center collegiality at its best, however, the plan's principal opponent, Richard Alderman, asked to come to the copyright professor's office and offer him the opportunity to persuade the likely dissenters of the plan's merit. Alderman came and listened—but was not persuaded.

The plan then went forward for faculty decision. Specifically, Joyce proposed that the faculty:

(1) Approve the concept of formally identifying IP as a specialty field for UHLC;
(2) Give "go ahead" for beginning the research, etc., needed to compile information for a proposal to forward to the state's Coordinating Board regarding an LL.M. in IP; and
(3) Approve, on a contract basis, someone to be appointed as Co-Director of the IPP [Intellectual Property Program].

Furthermore, the professor proposed that, if the program were not successful and self-sufficient within two to three years, it should terminate automatically. Faculty Meeting Minutes (Oct. 3, 1991) (on file with Houston Law Review).

At the faculty meeting itself, the advocacy on both sides was strong, and the balloting, close. The plan prevailed initially on a vote of 17–16, but it then was approved unanimously, for the record, when the most determined doubter, Richard Alderman, graciously so moved and the faculty duly concurred.

16. For a summary of HLPI's non-HLR related accomplishments, see Centered, supra note 3, at 1033–34.
17. For one such development at least tangentially related to HLR, spearheaded for IPIL by Janicke, see Centered, supra note 3, at 1031 (“The LL.M. Program”).
20. For a listing of all annual IPIL Symposia issues to date, see the Decade 5 essay.
21. For a listing of all Spring Lecture articles to date, see the Decade 5 essay.
22. All references during the remainder of these essays to any of the programs just named will carry the moniker “IPIL.”
23. Vitally importantly to Houston Law Review, since 1999 the following distinguished faculty have been added to the IPIL roster: Greg Vetter (2002) (among the nation's leading

24. Except as noted otherwise, all of the information contained in the following subsection is drawn either from the personal recollections of this essay's senior co-author or from communications by the Editors in Chief of Boards 32 and 33, Robert J. Sergesketter, Senior Counsel, Apache Corporation, and D'Andra Millsap Shu, Senior Attorney, Morgan Lewis & Bockius, respectively. See E-mail from Sergesketter to Craig Joyce, Andrews Kurth Professor of Law, University of Houston Law Center (Feb. 2, 2013); E-mail from Shu to Joyce (Feb. 20, 2013); E-mail from Shu to Joyce (Feb. 22, 2013) (all on file with Houston Law Review).


26. Professors are always "young" to students when they are not older than the students' parents.

27. See Joyce & Hoffman, Centered, supra note 3, at 1043–44.

28. Unlike the by-then discontinued Butler & Binion Lectures. See Joyce & Hoffman, Centered, supra note 3, at 1038, 1041.

29. See Joyce & Hoffman, Boldly, supra note 2, at 695.

30. See id. at 692–93.

31. See id. at 708 n.19.

32. They were, respectively, Professor John Coffee, Jr. of Columbia University School of Law, Richard E. Speidel of Northwestern, and Brandon Becker, Special Advisor to the Chair of International Derivatives of the Securities and Exchange Commission.

33. Here is Shu's report:

[T]he biggest challenge our board faced was pulling off the Frankel Lecture. I had heard plenty about the Frankel Lecture as I prepared to take over as Editor in Chief. Bob Sergesketter, the EIC who trained me, told me that the "hard part" was taken care of because he and Professor Craig Joyce had already lined up a great slate of speakers, with Dean Joel Seligman being the keynote. "All" we had to do was set up the event. No one on my board had ever organized anything like this, and unlike today, we had no model to work off of or editor assigned to take care of it. So, among the many other hats I wore as EIC, that year I also wore the "Frankel Organizer" hat. I recruited anyone on my board with any time to spare, and we spent hours on end working out every detail: from big ones, like where the lecture should be held and where the guests would stay, to small ones, like whether to have written programs and/or a welcome gift for the speakers. It seems like we had some crisis or previously unthought-of issue on a daily basis. Like the day we realized we had no idea how the speakers would get from the airport to the hotel. One very helpful articles editor offered to use his Monte Carlo and be Dean Seligman's personal chauffeur!

All of our hard work paid off. The inaugural Frankel Lecture went off without a hitch. . .

These days, Shu adds, "the model for the Frankel Lecture is well established, and they even have an editor whose job it is to organize event. Lucky them! I look forward to the Frankel Lecture every year and am honored to have been part of establishing such a first-class event." E-mail from Shu to Joyce (Feb. 20, 2013), supra note 24.

34. In discussing later the inaugural lecture and his visit to the University of Houston Law Center, Dean Seligman commented: "I thought it was great. The panelists were extraordinary and it was a pleasure to participate in this. You have some very talented professors here, and I enjoyed meeting people whose work I have read and seeing old friends." Dominic Corva, Potential Plaintiffs Must Be Accurately Informed About the Arbitration Process, DAILY COUGAR (Feb. 5, 1996), available at http://archive.thedailycougar.com/vol61/87fubar2/4a.html.
35. As reconstructed by Shu and Sergesketter. E-mail from Shu to Joyce (Feb. 22, 2013), supra note 24.

36. E-mail from Shu to Joyce (Feb. 20, 2013), supra note 24.

37. The authors of these essays deny any connection between the editors of Houston Law Review and the paranoid schizophrenics and enduring recurrent delusional episodes of fictional characters in the 2001 movie bearing a similar name.

38. See Joyce & Hoffman, Centered, supra note 3, at 1045 n.51.


40. See Joyce & Hoffman, Boldly, supra note 2, at 710 n.44 (regarding the current Board of Directors' instruction to student editors concerning book projects).

41. E-mail from Sergesketter to Joyce, supra note 24.

42. Except as noted otherwise, as for example where board of directors meeting minutes are cited, all of the information contained in the following subsection is drawn from either the Sergesketter-to-Joyce e-mail cited in note 24 or the personal recollections of this essay's senior co-author.

43. Sergesketter elaborates:

Given the stress level inherent in publishing a law review while the students also were managing a full course load, clerkship interviews, Moot Court, and part-time jobs, it was understandable that the law review office was not a favorite place to spend any more than the bare minimum number of hours required to fulfill one's law review obligations. So we set out to make the law review office a place where students enjoyed hanging out before, between, after—and sometimes during—classes. While this may not have translated directly into a higher-quality published product, it did make life on the Review more enjoyable and fostered friendships that have lasted the better part of two decades. In my opinion, and I expect in the opinion of many of my fellow law review classmates, it is those lasting friendships that were the best thing to come out of being on law review.

Id.

44. Sergesketter: "Nothing would have been more depressing than popping Champagne on graduation night and then having to drag ourselves back to our basement offices to work on the Review when we should have been backpacking through Europe."

Id.

45. Although the entire process had been made considerably more efficient previously by the introduction of word processing software and other more modern technology during Decade 3. See Joyce & Hoffman, Centered, supra note 3, at 1035–36.

46. Nor did the new process inflict on editors nearly the stress that the "never gonna happen" doubters had predicted. Two boards later, Board 34's Managing Editor could report: "We published on time, every time—and had a lot of fun doing so." Questionnaire Response, Tony Buzbee, Buzbee Law Firm (Mar. 26, 2012) (on file with Houston Law Review).


48. Id.


The account that follows relies almost exclusively on the memories of Craig Joyce, long-time chair of the Law Center’s Facilities Policy and Planning Committee, who thanks Robert Gonzalez, the school’s Allison-era facilities manager, for reviewing the data for accuracy. E-mail from Robert Gonzalez to Craig Joyce (Mar. 15, 2013) (on file with Houston Law Review).

For more information on John M. O’Quinn, see id. at 271–73.

Judge Brown (1909–1993), an expert in admiralty law and a great judicial stylist, figured importantly in the desegregation of the American South, serving from 1967 to 1979 as Chief Judge of the Fifth Circuit (which stretched from Texas to Florida before the creation of the Eleventh Circuit in 1981) during a period marked by the courageous service of Brown and his fellow judges in most hostile circumstances. See generally Jack Bass, Unlikely Heroes (1990). The papers were acquired from the Judge’s widow, Vera Brown, in 1993 by Dean Robert L. Knauss and Professor Craig Joyce and then lovingly indexed by the O’Quinn Law Library staff. Sadly, they lay in Allison’s path on June 9, 2001. Of the 306 boxes of papers received, ultimately 102 were rescued and have been preserved.

The facilities committee chair was not alone that morning. Jon Schultz, the long-time director of the law library, arrived in hip boots—not nearly enough protection in the circumstances—and was overcome. Also present, surprisingly, was an entrepreneur named Don Hartsell, who had invented various devices that would prove to be hugely useful in the aftermath of Allison, including technology to pump chilled air throughout the now totally disabled Law Center complex, thereby in due course arresting the spread of mold and mildew, and another device that freeze-dried waterlogged documents, making it possible to salvage partially at least some of the papers and books that had drowned in the storm. The facilities chair pointed out to the entrepreneur that downtown Houston was prostrate. Institutions like Bank of America, where one person died in an elevator while trying to salvage her car in the underground garage, would be willing to pay a fortune for his services, and certainly far more than the Law Center could. Why had he decided to offer his services to us? Back came the answer. Hartsell was a graduate of the Law Center—and fondly remembered his instruction, most likely by an adjunct professor, in none other than intellectual property law, where he had made his career. He was a proud alum. He simply wanted to help the Law Center in its hour of maximum need.


65. At least according to the literary critics of Board 34 who ably introduced him by way of a brief introduction to his essay. Frank Kermode, Justice and Mercy in Shakespeare, 33 Hous. L. Rev. 1155, 1155 (1996).

66. Id.


71. In attendance at that year's Lecture were "lawyers, judges, biblical scholars, bibliophiles, members of the clergy, comparative religion experts, authorities on the Middle East, law faculty... and of course... students." Craig Joyce, Welcome and Introduction, 38 Hous. L. Rev. xi, xiv (2001).

72. A search of Westlaw's "Federal Courts" database at the time of this essay's publication yields more than 3,000 citations to Nimmer on Copyright. Like Houston Law Review, Nimmer on Copyright currently is celebrating its 50th anniversary.


74. See, e.g., THE CONSTRUCTION OF AUTHORSHIP: TEXTUAL APPROPRIATION IN LAW AND LITERATURE (Martha Woodmansee & Peter Jaszi eds., 1994).

75. Nader had no need for an exhaustively long curriculum vitae in his "author footnote," as so many other authors do. Rather, he was proud merely to be the founder of "Public Citizen" (with an L.L.B. from Harvard also in hand). Ralph Nader, Occupational Safety and Health Act, 31 Hous. L. Rev. 1, 1 n.* (1994).

76. Id. at 2.

77. Although there is considerable scholarly debate about whether Ralph Nader truly did "spoil" the 2000 presidential election for Al Gore, compare Barry C. Burden, Ralph Nader's Campaign Strategy in the 2000 U.S. Presidential Election, 33 Amer. Politics Res. 672, 672-73 (2005) (claiming that "Nader held the election in his hands"),
with Sam Smith, *Nader Not Responsible for Gore's Loss*, PROGRESSIVE REV. (July 2002),
http://prorev.com/green2000.htm (finding that “Ralph Nader’s influence on the final
results [of the 2000 election] was minimal to non-existent”), and CHARLES L ZELDEN,
*BUSH V. GORE: EXPOSING THE HIDDEN CRISIS IN AMERICAN DEMOCRACY* (2008)
(painstakingly and dispassionately recounting the facts of the contest), there is little
debate about the importance to a law review of publishing such a recognizable public
be inferred from the fact that judges rely on academic pieces in their work: Law review
articles and legal treatises are cited in opinions on a regular basis. And it’s not just any
opinions, either; the opinions most likely to rely on the works of academics are those
written in the gray areas of the law where precedent doesn’t provide a clear-cut answer.”).

78. Joyce & Hoffman, *Centered*, *supra* note 3, at 1041–43 (listing Harvard, Yale,
North Carolina, Vanderbilt, Washington University, and Ohio State among the law
schools represented by the Health Law institute’s contributions to *HLR* in Decade 3).

79. See *id.* at 1034.

80. A full list of the Health Law & Policy Institute’s symposia issues published in
*Houston Law Review* is available at *id.* n.23.

81. See “Intellectual Property and Information Law” above for a discussion on
*HLR’s* historical proclivity for IP scholarship.


83. Linck, Kramer, & Ball, *supra* note 18; Raymond T. Nimmer, *Images and
Contract Law—What Law Applies to Transactions in Information*, 36 *Hous. L. Rev.* 1
(1999); David Nimmer, *Copyright in the Dead Sea Scrolls: Authorship and Originality*, 38
*Hous. L. Rev.* 1 (2001); L. Ray Patterson, *Nimmer’s Copyright in the Dead Sea Scrolls: A
Comment*, 38 *Hous. L. Rev.* 431 (2001); Niva Elkin Koren, *Of Scientific Claims and
Proprietary Rights: Lessons from the Dead Sea Scrolls Case*, 38 *Hous. L. Rev.* 445 (2001);
Court Go Wrong?*, 38 *Hous. L. Rev.* 463 (2001); Richard A. Lanham, *Barbie and the
Teacher of Righteousness: Two Lessons in the Economics of Attention*, 38 *Hous. L. Rev.*

84. See Joyce & Hoffman, *Centered*, *supra* note 3, at 1034.

85. Who urged his peers, in a mutually deprecating sort of way, to continue
publishing with *Houston Law Review*: “The *Houston* article nags know something about
Rev.* 855, 855 n.*.

86. In patent law, the PHOSITA, or “Person Having Ordinary Skill In The Art,” i.e.,
in lay language, a scientist or engineer of reasonable competence in the relevant field
of invention, is a familiar figure. Under § 103 of U.S.C. Title 35 (the Patent Act), a patent
will not be issued “if the differences between the claimed invention and the prior art are
such that the claimed invention as a whole would have been obvious before the effective
filing date of the claimed invention to a person having ordinary skill in the art to which
the claimed invention pertains.”

L. Rev.* 1 (2003); David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service


89. *A Tribute to Professor G. Sidney Buchanan upon His Retirement*, 41 *Hous. L.
Rev.* 237 (2004). Regarding Professor Buchanan’s nickname, see Joyce & Hoffman, *Boldly,
supra* note 2, at 703–06.

90. The information in the following paragraph combines recollections by one of the
co-authors of this essay with facts and figures provided by the long-time director of the
O’Quinn Law Library, Jon Schultz. E-mail from Jon Schultz to Craig Joyce (Mar. 9, 2013)
on file with Houston Law Review).

91. The remainder of this section is based on Professor Joyce’s memories and the
following reminiscences generously provided by Boards 39 and 40. E-mail from Sidney
Gibbs Ballesteros, Board 39 Editor in Chief, to Craig Joyce (Feb. 25, 2013); E-mail from George F. May, Board 39 Chief Articles Editor, to Craig Joyce (Feb. 25, 2013) (containing HLR questionnaire response and May’s superb Essay on Allison); E-mail from Joan E. Beckner, Board 40 Chief Articles Editor, to Craig Joyce (Feb. 26, 2013). All documents are on file with Houston Law Review.

92. See Joyce, Driven, supra note 2, at 258–63; Joyce & Hoffman, Boldly, supra note 2, at 690–96; Joyce & Hoffman, Centered, supra note 3, at 1028–37.

93. See supra note 62 (noting the generosity of Don Hartsell).

94. See supra text accompanying notes 56–58, for a description of the arrangement the Law Center’s four floors, half of them located above ground fully, and half of them not.

95. E-mail from Sydney Gibbs Ballesteros to Craig Joyce, supra note 91.

96. One advantage of the design of the furnishings: all power lines run within the moveable walls at a height such that only an Allison II could ever damage them.

97. As reported by Board 39’s Chief Articles Editor:

Even today, the legacy of Allison can be seen in the Houston Law Review. Spearheaded by Professor Joyce, the Law Review, International Journal, and other student organizations were given permanent space in the basement of the library for their offices. The basement having just suffered a catastrophic flood, some questioned the wisdom of this plan (I admit to being a vocal critic at the time). But Professor Joyce turned out to not only be right, but carried through fully on making the new space vastly better than the space the law review had lost. For Board 39. Of course, Board 38 never got to use the new space, but let’s not quibble. We had our trailers and a wealth of memories that came with slogging through adversity.

See E-mail from George F. May to Craig Joyce, supra note 91.

98. See supra note 62. “The name’s Joyce. Craig Joyce.” After Allison, he was shaken, but not stirred from his duty. Cf. any “James Bond” movie.

99. During G. Sidney Buchanan’s long run as faculty advisor to Houston Law Review, he took but one hiatus: in 1985–1987, when he feared that concurrent service as advisor and Associate Dean for Academic Affairs would be perceived, to HLR’s detriment, as a conflict of interest that might preclude him from making decisions justified by both the Law Center’s and the Review’s best interests.

100. Brian Huddleston, A Semester in Exile: Experiences and Lessons Learned During Loyola University New Orleans School of Law’s Fall 2005 Hurricane Katrina Relocation, 57 J. LEGAL EDUC. 319 (2007).

101. E-mail from Sydney Gibbs Ballesteros to Craig Joyce, supra note 91.
**ODDMENTS**

*Discontinued Features.* No more such features to report. This category itself now has been discontinued, no longer to darken these essays with the shades of deservedly forgettable features from *Houston Law Review*’s distant past. (We do, however, confess a favorite, from Decade 1: “Current Materials,” or citations to “items from other reviews selected by the *Houston Law Review* as being of probable interest,” with the suggestion that, if interested, readers obtain a copy of the article or comment listed “by writing to the review in which it appeared.”) By Decade 4, the Review had reached its mature form—at least, for as long as print may last.

*Romancing Reviewers.* Decade 4’s most visible romance, continuing to this day, produced the 1996 wedding (planned during their bar review prep course) of Board 33 Editor in Chief D’Andra Millsap and Chief Articles Editor Glen Shu. Their two children thank them (and, we hope, *HLR*). Also from Decade 4, rumors persist of forbidden relations between Review denizens and alien beings from other UHLC journal planets. Call them “Illicit Inter-Species Romances.” Of this, we shall say no more.

*A Modest Recovery.* For the first time in four decades, no dramatic change occurred in *HLR*’s cover format. True to form, however, Board 32 (whose motto appears to have been “no task too great . . . or too small”) did effect a subtle redesign, adopting typeset and layout conventions that gave *Houston Law Review* a more contemporary look without inflicting upon it another massive makeover. Apparently, the “gentle Lowlands birds” referenced in *Centered* had been, indeed and as advertised, bearers of “peace and deliverance.”

*Faculty Advisors.* In his fourth decade as advisor, G. Sidney Buchanan remained in harness, but supplemented now by a motley crew of fellow and successor advisors (including one of these essays’ co-authors). Their contributions will receive greater attention in Decade 5.

*The Class the Robes Fell On.* Among Decade 4’s distinctions were the many members elected or appointed to the judiciary from Board 32. Of the Board’s 38 members, at least four became judges: David Bernal and Reece Rondon, both of whom now have returned to private practice, and, still serving, 151st Civil
District Court Judge Mike Engelhart and 14th Court of Appeals Justice Jeff Brown.

A Title, a Title, My Kingdom for a Title! Here, the sentimental favorite for best title of the decade is, inescapably, Professor Buchanan’s No Connecticut Yankee in the Texas Supreme Court, 40 HOU. L. REV. 931 (2003). (Unless deeply interested in permissible uses of extrinsic evidence in construing wills, the reader is advised to stick with just enjoying the title.) Then again, who could resist David Robinson’s From Fat Tony and Matty the Horse to the Sad Case of A.T.: Defensive and Offensive Use of Hearsay Evidence in Criminal Cases, 32 HOUS. L. REV. 895 (1995)? (We “hear say” it’s about what it sounds like.)

Fish, Meet Barrel. During Houston Law Review’s Decade 4, and following its by-now established tradition, four of ten Editors in Chief were women. Meanwhile, a Cambridge, Mass., similarly-initialed journal had added an historic first to its own distinguished record: a first black President (one “Barack H. Obama,” who would later gain the same title in another, and bigger, league). Kudos to Cambridge for a prescient choice. Ahem, but as we were saying . . . By the end of its fourth decade, in the tabulation of women EICs at South versus women Presidents at North, the contrast between the junior and senior circuits had become pronounced. Houston Law Review, at 40, was no rookie; and Harvard Law Review, at 116, had long since entered the Hall of Fame. Nonetheless, as HOUS. L. REV. stepped up to the plate for Decade 5, the shellacking continued. For those scoring (these stats don’t lie): Bayou City HLR, 12 for 40 (batting .300); Beantown HLR, 4 for 116 (a measly .034). The lead? Now insurmountable. In law reviews, as in life and Little League, there is, or should be, a 10-run rule.

* An oddment, according to the Merriam-Webster Dictionary, is “something left over”—or, more simply, an “oddity.” In the plural, oddments are “odds and ends.” http://www.merriam-webster.com/dictionary/oddment. The following section, a recurring feature of these essays, consists of interesting, perhaps even entertaining, bits and pieces of information which have found no convenient placement in the writing of an essay, but which seem (at least most of them) too good to be left as a “remnant” (another common definition of “oddment”) on the cutting room floor.
# BY THE NUMBERS...

## ISSUES AND PAGES

<table>
<thead>
<tr>
<th>Volume</th>
<th>Issues</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
<td>5</td>
<td>1668</td>
</tr>
<tr>
<td>32</td>
<td>5</td>
<td>1515</td>
</tr>
<tr>
<td>33</td>
<td>5</td>
<td>1647</td>
</tr>
<tr>
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<td>5</td>
<td>1664</td>
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</tr>
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</tr>
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<td>40</td>
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</tbody>
</table>

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MEMBERS, EDITORS IN CHIEF, AND FACULTY ADVISORS

<table>
<thead>
<tr>
<th>Board</th>
<th>Members</th>
<th>Editor in Chief</th>
<th>Faculty Advisors</th>
</tr>
</thead>
<tbody>
<tr>
<td>34 (1996–97)</td>
<td>34</td>
<td>J. Kevin Blodgett</td>
<td>G. Sidney Buchanan, Seth. J. Chandler, Robert A. Ragazzo, and David R. Dow</td>
</tr>
<tr>
<td>35 (1997–98)</td>
<td>32</td>
<td>James L. Simmons</td>
<td>G. Sidney Buchanan, David R. Dow, Craig Joyce, and Robert A. Ragazzo</td>
</tr>
<tr>
<td>36 (1998–99)</td>
<td>36</td>
<td>Matthew C. Rawlinson</td>
<td>G. Sidney Buchanan, David R. Dow, Craig Joyce, and Robert A. Ragazzo</td>
</tr>
<tr>
<td>38 (2000–01)</td>
<td>41</td>
<td>Nancy R. Kornegay</td>
<td>G. Sidney Buchanan, David R. Dow, Craig Joyce, and Robert A. Ragazzo</td>
</tr>
<tr>
<td>39 (2001–02)</td>
<td>36</td>
<td>Sydney Gibbs Ballesteros</td>
<td>G. Sidney Buchanan, David R. Dow, Craig Joyce, and Robert A. Ragazzo</td>
</tr>
</tbody>
</table>
## ARTICLE TOPICS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Law</td>
<td>1</td>
</tr>
<tr>
<td>Antitrust Law</td>
<td>1</td>
</tr>
<tr>
<td>Banking &amp; Finance Law</td>
<td>2</td>
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<td>2</td>
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<tr>
<td>Civil Rights Law</td>
<td>7</td>
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<tr>
<td>Constitutional Law</td>
<td>24</td>
</tr>
<tr>
<td>Consumer Law</td>
<td>3</td>
</tr>
<tr>
<td>Contract Law</td>
<td>2</td>
</tr>
<tr>
<td>Corporate Law</td>
<td>5</td>
</tr>
<tr>
<td>Courts</td>
<td>6</td>
</tr>
<tr>
<td>Criminal Law</td>
<td>15</td>
</tr>
<tr>
<td>Environmental Law</td>
<td>3</td>
</tr>
<tr>
<td>Ethics</td>
<td>2</td>
</tr>
<tr>
<td>Evidence</td>
<td>12</td>
</tr>
<tr>
<td>Family Law</td>
<td>13</td>
</tr>
<tr>
<td>Health Law</td>
<td>32</td>
</tr>
<tr>
<td>IP &amp; Computer Law</td>
<td>38</td>
</tr>
<tr>
<td>International Law</td>
<td>3</td>
</tr>
<tr>
<td>Labor &amp; Employment Law</td>
<td>10</td>
</tr>
<tr>
<td>Legal Education</td>
<td>2</td>
</tr>
<tr>
<td>Legal History</td>
<td>3</td>
</tr>
<tr>
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<td>12</td>
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<tr>
<td>Legislation</td>
<td>1</td>
</tr>
<tr>
<td>Oil, Gas &amp; Mineral Law</td>
<td>1</td>
</tr>
<tr>
<td>Property Law</td>
<td>1</td>
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<tr>
<td>Securities Law</td>
<td>6</td>
</tr>
<tr>
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<td>1</td>
</tr>
<tr>
<td>Tort Law</td>
<td>4</td>
</tr>
<tr>
<td>Wills, Trusts &amp; Estates Law</td>
<td>1</td>
</tr>
</tbody>
</table>
THEMED ISSUES AND BOOKS PUBLISHED

THE FRANKEL LECTURE SERIES

The Quiet Revolution: Securities Arbitration Confronts the Hard Questions
Joel Seligman
33 HOUS. L. REV. 327 (1996)

Just Politics? Five Not So Easy Pieces of the 1995 Term
Pamela S. Karlan
34 HOUS. L. REV. 289 (1997)

Bringing International Law Home
Harold Hongju Koh

Who Gives a Hoot About Legal Scholarship?
Judge Alex Kozinski

Copyright in the Dead Sea Scrolls: Authorship and Originality
David Nimmer
38 HOUS. L. REV. 1 (2001)

Values, Violence, and the Second Amendment: American Character, Constitutionalism, and Crime
Robert Weisberg

The Crisis in Corporate Governance: 2002 Style
Robert W. Hamilton

HEALTH LAW SYMPOSIA

Occupational Safety and Health Act
31 HOUS. L. REV. 1 (1994) (5 articles)

Nonfinancial Barriers to Health Care

International Health Law
33 HOUS. L. REV. 1283 (1997) (6 articles)

Domestic Violence and the Health Care System

Managed Care and the Physician–Patient Relationship
35 HOUS. L. REV. 1385 (1999) (5 articles)
Emerging Issues in Public Health Law
36 HOUS. L. REV. 1597 (1999) (5 articles)

Health Care and the Americans with Disabilities Act
37 HOUS. L. REV. 979 (2000) (6 articles)

INTELLECTUAL PROPERTY AND INFORMATION LAW SYMPOSIA

E-Commerce and Privacy
38 HOUS. L. REV. 717 (2001) (6 articles)

The Future of Patent Law

Considering Copyright
40 HOUS. L. REV. 609 (2003) (8 articles)

OTHER THEMED ISSUES AND BOOKS PUBLISHED

Family Law Themed Issue
31 HOUS. L. REV. 359 (1994) (13 articles)

Panel Discussion: The Death of Fairness? Counsel Competency and Due Process in Death Penalty Cases
31 HOUS. L. REV. 1105 (1994) (11 contributions)

Legal Issues in the Information Revolution

Licensing in the Digital Age

School Violence, School Safety, and the Juvenile Justice System
MOST PUBLISHED AUTHORS

1. G. Sidney Buchanan (9 articles)

T2. David R. Dow and Irene Merker Rosenberg (4 articles each)

T4. Harvey Brown, Rafael Gely, and Craig Joyce (3 articles each)

MOST CITED ARTICLES

1. Bringing International Law Home
   Harold Hongju Koh

2. The Legislative History of U.S. Air Pollution Control
   Arnold W. Reitze, Jr.
   36 HOUS. L. REV. 679 (1999) (114 citations)

3. Revised Article 3: “[Revise] It Again, Sam”
   Sarah Howard Jenkins
   36 HOUS. L. REV. 883 (1999) (111 citations)

4. Pre-Dispute Mandatory Arbitration in Consumer Contracts:
   A Call for Reform
   Richard M. Alderman
   38 HOUS. L. REV. 1237 (2001) (109 citations)

5. Summary Judgments in Texas
   Judge David Hittner & Lynne Liberato
   34 HOUS. L. REV. 1303 (1998) (98 citations)

2. Methodological Note: Professionally authored pieces appearing in Houston Law Review are described variously as, for example, “articles,” “essays,” “addresses,” “commentaries,” “forewords,” “introductions,” “prefaces,” “prologues,” “epilogues,” “books,” and “chapters.” The category ascribed to an individual piece by Houston Law Review does not connote an editorial judgment as to quality.


In order to achieve a bright-line rule that requires no qualitative or quantitative discrimination among the contributions to the Review described above, the editors of By the Numbers have simply counted each such professional authored contribution as an “article” for purposes of the present tabulation.

In the same spirit, each “chapter” of a book is treated in this series of essays as equivalent to an “article” for counting purposes. While no books appear in the Decade 4 tabulation above, tabulations in other decades do contain such recitations of chapters contributed. See, e.g., “By the Numbers” in Decade 2, counting 46 works total (40 chapters and 6 articles) by Jim M. Perdue, James B. Sales, and G. Sidney Buchanan in Volumes 11–20. Craig Joyce & Matthew Hoffman, Carry On Boldly, 50 HOUS. L. REV. 689, 720 (2012).
LONGEST ARTICLES

1. *Copyright in the Dead Sea Scrolls: Authorship and Originality*
   David Nimmer
   38 Hous. L. Rev. 1 (2001) (217 pages)

2. *Perpetuating Risk? Workers’ Compensation and the Persistence of Occupational Injuries*
   Emily A. Spieler
   31 Hous. L. Rev. 119 (1994) (145 pages)

   Judge Harvey Brown
   36 Hous. L. Rev. 743 (1999) (139 pages)

4. *Summary Judgments in Texas*
   Judge David Hittner & Lynn Liberato
   34 Hous. L. Rev. 1303 (1998) (122 pages)

5. *Informed Consent and Patients’ Rights in Japan*
   Robert B. Leflar
   33 Hous. L. Rev. 1 (1996) (112 pages)

DEDICATIONS, TRIBUTES, IN MEMORIA, ETC.

Volume 31, Issue 5 contains an In Memoriam honoring
Gilbert Lee Finnell, Jr.

Volume 32, Issue 1 contains a Tribute to G. Sidney Buchanan.

Volume 36, Issue 2 contains a Tribute to Justice Raul A.
Gonzalez on his Retirement from the Supreme Court of Texas.

Volume 39, Issue 4 contains an In Memoriam honoring
Yale Rosenberg.